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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/195,791 | 11/17/1998 | MOHAMED K. DIAB | MASIMO.7CP1C | 4687 |

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KNOBBE MARTENS OLSON & BEAR
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

EXAMINER

WINAKUR, ERIC FRANK

| ART UNIT | PAPER NUMBER |
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3736

DATE MAILED: 10/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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09/195791

EXAMINER

Winakur

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Commissioner for Patents

All claims are allowable. The prior art teaches methods and apparatus for measuring saturation of a blood constituent in a patient including irradiating a patient with two wavelengths and detecting light that has passed through the patient, wherein the detected light includes a motion component. However, the prior art does not teach or suggest an apparatus or method for determining the saturation by generating a plurality of data packets from detected optical measurement signals at two wavelengths, and using a mathematical relationship relating first and second portions of the measured signals at both wavelengths and a ratio of the first portion of the signals at both wavelengths to generate at least first and second functions from the data packets, wherein the first and second functions have a final solution value indicative of the ratio.

However, due to a potential interference, ex parte prosecution is **SUSPENDED FOR A PERIOD OF 6 MONTHS** from the date of this letter. Upon expiration of the period of suspension, applicant should make an inquiry as to the status of the application.

Attachments: Information Disclosure Statements (PTO-1449) -- Papers 2, 4

Eric F Winakur
Primary Examiner
Art Unit: 3736